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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,346

09/13/2004

George Manak

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03/16/2009

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EXAMINER

TRAN LIEN, THUY

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/711,346	Applicant(s) MANAK ET AL.	
	Examiner Lien T. Tran	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
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| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Upon further consideration and the finding of new reference to Huber et al. (6414708, the indication of allowability of claim 27 is hereby withdrawn.

Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Huber et al.

Huber et al disclose system for producing foods. The system comprises an extruder comprising a cutter, means for drying, means for tempering and means for cutting. The extruder in Huber et al comprises a cutter. Paragraph 38 of the specification discloses the cutter 480 is attached adjacent to the die of the extruder 460. The cutter in the Huber extruding system is attached adjacent to the die connected to the extruder. Huber et al disclose an extruder in which a rotating knife assembly is position adjacent the outlet of the die for cutting the extrudate into a convenient size. Figure 1 shows a die assembly (20) attached to the extruder containing the cutter (54). Huber et al disclose a dehydration assembly 14 which is means for drying (see col. 4 line 55). The claim does not distinguish between means for drying the loaves and means for drying the crumb; thus, it can be the same means and the function does not determine the patentability of the apparatus. The dehydration assembly includes agitator 56 which contains a pair of blades to provide sharp cutting edge (see col. 4 lines 64-67); this is a means for cutting. The dehydration assembly further includes cyclone 68 (see col. 5 lines 24-25) which is a means for tempering because the specification discloses the temperer is a cyclone.

Claims 15-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens et al in view of Cross and Huber et al.

Stevens et al disclose a system comprising an extruder for extruding a mixture, a segmenter for cutting the extrudate, a drier for drying the segments, a mill for milling to provide granules, a sieve for screening and sorting the granules. The system also can include a mixer to make an extrudable mixture. The segmenting is achieved by using a cutting means which can be a wire or knife. The dryer can be a fluid bed dryer and the extruder can be heated. (see columns 4-5)

The segmenter and mill in the Stevens et al system are equivalent to the coarse cutting and fine cutting. The sieve is equivalent to the claimed sizing device.

Stevens et al do not disclose an extruder comprising a cutter, a second dryer, a tempering chamber, plurality of pneumatic conveying lines and bypassing lines.

Cross discloses a system for making snack product. The system comprises a pre-conditioner, and extruder, a first dryer, a first cyclone separator, a second cyclone separator, a conveyor assembly and a spraying mechanism. The system contains a cutter for cutting a cooked extrudate as it emerges from the extruder; the cutter is connected to the extruder. When the use of a second drying apparatus is not feasible, the product can be returned to the first drying apparatus for further drying. The system comprises two cyclone separators, any apparatus capable of pneumatically transferring and thus agitating the material can be used. The pieces are pneumatically transferred.

Huber et al disclose an apparatus for extrusion and dehydration. They disclose an extruder in which a rotating knife assembly is position adjacent the outlet of the die for cutting the extrudate into a convenient size. Figure 1 shows a die assembly (20) attached to the extruder containing the cutter (54) (see example 1)

It would have been obvious to one skilled in the art to use an extruder having a cutter as taught by Cross and Huber et al. to cut the extrudate into convenient size at it emerges the extrudate to make processing more efficient when using the Stevens et al system because the extrudate will have shorter length before entering further processing. The extruder disclosed in Cross and Huber et al comprises a cutter. Paragraph 38 of the specification discloses the cutter 480 is attached adjacent to the die of the extruder 460. Both the cutters in Cross and Huber extruding systems are attached adjacent to the die connected to the extruder. It would have been obvious to one skilled in the art to include a second dryer as taught by Cross in the Stevens et al system when it is desired to further dry the granular product. Adding additional dryer depends on the type of end product made and the moisture content wanted for that product. It would also have been obvious to include a cyclone separator as taught by Cross to enable the separation of unwanted material ; one would have been motivated to add the separator to obtain a purer end product. The placement of the particular device in the system depends on what is deemed convenient and the type of product made. This placement can readily be determined by one skilled in the art without undue experimentation. It would have been obvious to by-pass the second cutter or grinder depending on the ultimate size of the end product desired. It would have been obvious to use pneumatical transfer as taught by Cross to facilitate the transferring process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks, can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 12, 2009

/Lien T Tran/

Primary Examiner, Art Unit 1794